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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/720,260 | 11/25/2003 | Je-An Yu | Q78587 | 4103 |

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| EXAMINER | |
|---|---|
| MATZEK, MATTHEW D | |
| **ART UNIT** | **PAPER NUMBER** |
| 1771 | |

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/720,260 | YU ET AL. | |
| | Examiner | Art Unit | |
| | Matthew D. Matzek | 1771 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *12 August 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) *6-17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/22/05, 8/11/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *IDS: 11/25/03*.

### *Election/Restrictions*

1. Applicant's election without traverse of Group 1, claims 1-5, in the reply filed on 8/12/2005, is acknowledged.

2. Claims 6-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected article, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/12/2005.

### *Specification*

3. The abstract of the disclosure is objected to because of its length. The abstract must be no longer than 150 words. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102/103*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kim et al. (US 5,952,250).

a. Kim et al. teach an uncoated fabric for producing airbags (Abstract). The permeability of the fabric should be less than 0.5 cc/($cm^2$*sec) (col. 3, lines 50-

52). The applied invention is to be made of polyamide fibers (col. 3, lines 44-48). The tensile strength of the airbags should be greater than 181 kg (col. 1, lines 40-45).

b. Although Kim et al. do not explicitly teach the claimed feature of the polyamide fiber having a dry heat shrinkage of 3-6% (@ 190°C for 15 minutes) or a tear strength of 25-40 kg, it is reasonable to presume that said properties are inherent to Kim et al. Support for said presumption is found in the use of like materials (i.e. an uncoated polyamide fabric of common permeability and tensile strength). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties of having a polyamide fiber dry heat shrinkage of 3-6% (@ 190°C for 15 minutes) or a tear strength of 25-40 kg would obviously have been present one the Kim et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

c. Claims 1-4 are rejected as the presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656.

d. Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bergen et al. (US 5,693,392).

a. Bergen et al. teach an uncoated polyamide fabric for use in airbags with a permeability of less than 0.5 cc/($cm^2$*sec) (Abstract and col. 3, lines 12-16; conversion done by Examiner). The polyamide fiber of the applied invention has a dry heat shrinkage of <6% (claim 3).

b. Although Bergen et al. do not explicitly teach the claimed feature of the polyamide fiber having the instantly claimed tensile and tear strengths, it is reasonable to presume that said properties are inherent to Bergen et al. Support for said presumption is found in the use of like materials (i.e. an uncoated polyamide fabric for use in airbags with a permeability of less than 0.5 cc/($cm^2$*sec)). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties of having the instantly claimed tensile and tear strengths would obviously have been present one the Bergen et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

c. Claims 1-4 are rejected as the presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656.

d. Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although

produced by a different process, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi,* 218 USPQ 289, 292.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Thornton et al. (US 5,073,418).

a. Thornton et al. teach an uncoated polyamide fabric with a permeability of less than 0.5 cc/($cm^2$*sec) (Abstract and col. 2, lines 29-32). Example 1 has a tensile strength of 558 lbs. (253 kg) and the applied invention has a tear strength of at least 40 lbs. (18 kg) (Example 1 and claim 2).

b. Although Thornton et al. do not explicitly teach the claimed feature of the polyamide fiber having a dry heat shrinkage of 3-6%, it is reasonable to presume that said property is inherent to Thornton et al. Support for said presumption is found in the use of like materials (i.e. an uncoated polyamide fabric for use in airbags with a permeability of less than 0.5 cc/($cm^2$*sec)). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of the polyamide fiber having a dry heat shrinkage of 3-6% would obviously have been present one the Thornton et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

c. Claims 1-4 are rejected as the presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656.

d. Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi,* 218 USPQ 289, 292.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Krummheuer et al. (US 5,477,890).

a. Krummheuer et al. teach an uncoated woven fabric comprising polyamide fibers with dry heat shrinkage values of 6-10% or 2-5% (@ 190°C) depending upon the desired airbag usage (Abstract and col. 8, lines 18-26). The applied article has an air permeability of <1.67 cc/($cm^2$*sec).

b. Although Krummheuer et al. do not explicitly teach the claimed feature of the polyamide fiber having the instantly claimed tensile and tear strengths, it is reasonable to presume that said properties are inherent to Krummheuer et al. Support for said presumption is found in the use of like materials (i.e. an uncoated polyamide fabric for use in airbags with a dry heat shrinkage values of (6-10% or 2-5% (@ 190°C)). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties of having the instantly claimed tensile and tear strengths would obviously have been present one the Krummheuer et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

c. Claims 1-4 are rejected as the presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656.

d. Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292.

***Double Patenting***

8. Claims 1-5 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-15 of copending Application No. 10/941,911. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications are directed to uncoated polyamide fabrics possessing common physical properties.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

NORCA TORRES
PRIMARY EXAMINER
8/30/05

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NORCA TORRES
PRIMARY EXAMINER
8/30/05

mdm MDM